

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ACC OF KENTUCKY LLC'S PETITION FOR) CASE NO. 99-184
CONFIDENTIAL PROTECTION)

O R D E R

On March 30, 1999, ACC of Kentucky LCC (ACC) filed its Gross Operating Revenue Report as required by KRS 278.140. ACC also filed a request for confidential treatment of certain information contained in that report pursuant to 807 KAR 5:001, Section 7. On April 15, 1999, ACC s request for confidential treatment of that information was denied.

ACC filed a motion with the Commission on May 4, 1999 to request a hearing of the Commission s denial of confidential protection for certain information on the grounds that disclosure is likely to cause ACC competitive injury.

ACC has also requested an informal conference with the Commission Staff. The Commission finds that ACC should be granted an informal conference with Commission Staff and that a date for a formal hearing, if any, should be determined after the informal conference in this case.

The Commission, upon its own motion, finds that ACC should be required to provide the Commission with certain information concerning the data that ACC claims should be given confidential treatment.

The Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that:

1. The motion for a formal hearing is held in abeyance until after the informal conference granted herein.

2. An informal conference shall be held on July 20, 1999 at 1:00 p.m., Eastern Daylight Time, in Conference Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

3. Pending a hearing and final decision in this case, the information relating to ACC's gross revenues and number of customers for which ACC seeks confidential protection shall be held and retained by the Commission as confidential and shall not be open for public inspection.

4. No later than July 5, 1999 ACC shall file the information requested in Appendix A, which is attached hereto and incorporated herein. All responses shall include the name of the witness who will be available to respond to questions concerning each item of information requested, with copies to all parties of record and the original and 6 copies to the Commission.

Done at Frankfort, Kentucky, this 10th day of June, 1999.

By the Commission

ATTEST:

Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 99-184 DATED 6/10/99

1. List the counties in Kentucky in which ACC provides service.
2. Provide the names of your competitors in those areas.
3. Is ACC a subsidiary of a larger company? If so, what is the name of its parent company?
4. Does the parent company operate in other jurisdictions? If so, what jurisdictions?
5. On page 2, paragraph 1 of ACC's May 4, 1999 Motion (Motion), ACC states that its gross revenue and customer number information is generally recognized as confidential and proprietary.
 - a. Are you aware that this Commission has consistently denied confidential protection to the gross operating revenue report for all telecommunications providers in Kentucky?
 - b. Based on this policy, would you say that this Commission has not viewed the two numbers in question as competitively sensitive and therefore not generally recognized as confidential and proprietary?
6. The following questions relate to your cite of the West Virginia legislature's decision in its E-911 proceeding.
 - a. Provide a copy of the entire statute.
 - b. The cite seems to indicate that information pertaining to the providers

subscribers relates to the customer's name and address and any other customer-specific information residing in the 911 database and not to the total number of customers of the company. If this is not your understanding, please elaborate.

7. At the top of page 3 of the Motion, you state that all cellular carriers can monitor each other's costs. Explain how your company can obtain the costs of your competitors.

8. In paragraph 2 on page 3 of the Motion, you state that disclosure of ACC's gross revenues and customer numbers reveals ACC's Average Revenue Per Unit.

a. Are ACC's service prices exactly the same as its competitors?

b. Is the mix of services an ACC customer pays for exactly the same as the mix of services for which your competitors' customer pays?

(1) If yes, how did you determine this fact?

(2) If no, why isn't it meaningless to know an average revenue per unit if the prices are different and the mix of services between customers is different?

c. In the same paragraph you equate average revenue per unit with cost per customer. Explain why these two phrases are the same. Are not revenues and costs entirely different accounting concepts?

9. In paragraph 2 on page 3 of the Motion, you state that most existing competitors can approximate the actual cost of providing service per customer in a given market. Explain how you would determine the cost per customer for your competitors

listed in question 2 and provide an analysis of the computation of those costs by cost category, i.e., depreciation, taxes, capital costs, administrative costs and so forth.

10. Relative to your statement in paragraph 2 of page 3 of the Motion that disclosures of average revenue per unit would reveal how much capital a company has available for expansion,

a. Is not the capital available to any company for expansion the result of a company's total cash flow including depreciation, taxes, expenses, deferred taxes, and so on?

b. If ACC is a subsidiary of a large, multi-jurisdictional company, does this parent provide ACC in Kentucky with funds for expansion from a corporate line of credit or financing completed by the parent, or does ACC raise its own capital through the sale of equity and debt?

11. Provide a complete description of the market-specific information available from the FCC relative to the cellular and PCS industries and in particular the information that relates to Kentucky.

12. a. In the last paragraph on page 3 and over to page 4 of the Motion, you indicate that the average revenue per unit could reveal sensitive profitability information. Are not the concepts of average revenue per unit and profitability per unit different concepts? If no, what is your definition of these concepts?

b. Does not profitability relate to revenues less expenses, taxes, fixed charges and dividends, while the average revenue per unit only relates to revenues? If you disagree, explain your answer.

13. Explain your definition of market share as used in paragraph 2 on page 4 of

the Motion.

14. a. In the quote from North Carolina at the bottom of page 4 of the Motion, explain how ACC would be competitively harmed if its rate of customer growth could be determined.

b. Explain how a competitor could gain extensive insight into ACC's business plans by knowing ACC's total gross revenues and total number of customers.